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7 Attorneys for Kyle Everett,
Trustee in Bankruptcy

8 UNITED STATES BANKRUPTCY COURT
9 NORTHERN DISTRICT OF CALIFORNIA
10 SAN FRANCISCO DIVISION

11 In re
12 BENJA INCORPORATED, aka EPHE
13 CORPORATION,
14 Debtor.

Case No. 20-30819 DM
Chapter 7

15 KYLE EVERETT,
16 TRUSTEE IN BANKRUPTCY,
17 Plaintiff,
18 v.
19 THOMAS B. PETERS,
20 Defendant.

Adversary Proceeding No. 21-03060 DM

**PLAINTIFF'S STATUS CONFERENCE
STATEMENT**

Hearing:
Date: February 25, 2022
Time: 1:30 A.M.
Place: Tele/video conference

Remote appearances only

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23 Plaintiff, Kyle Everett, ("Plaintiff" or the "Trustee"), submits the following statement
24 regarding the upcoming status conference.

25 **BACKGROUND:**

26 Defendant, Thomas Peters ("Defendant"), purchased a small investment in the Debtor at or
27 around the same time as Debtor retained Peters' company (Kema Investments) to act as an
28 investment broker. Many months later, Peters agreed to make an additional \$500,000 investment
PLAINTIFF'S STATUS CONF. STMT.

1 in the Debtor. Peters invested \$250,000 of the commitment but then became concerned over the
2 viability and authenticity of Debtor's business. Peters then demanded repayment of the \$250,000.
3 The Debtor agreed and a share repurchase agreement was drafted by Debtor and edited by Peters,
4 but ultimately not signed by the parties. Debtor paid Peters the \$250,000 a few weeks before
5 filing bankruptcy. After making a demand on Peters for repayment of the transfer, which demand
6 was rejected, the Trustee filed this lawsuit.

7 **STATUS OF THE LITIGATION AND DISCOVERY:**

8 After the Court denied Peters' motion to dismiss, he timely filed his answer on February
9 15, 2022 (ECF 9). While the complaint focuses on avoiding the alleged fraudulent transfer to
10 Peters, the Trustee intends to amend the complaint (via stipulation or motion for leave) to add a
11 preference claim under Section 547. As such, it makes sense to continue the status conference for
12 60-90 days.

13 In terms of the discovery issues, in his Status Conference Statement, Peters alludes to the
14 Ponzi scheme issues in another case, *Everett v. MHC Financial*, Case No. 21-3036 (the "MHC
15 Litigation"). The MHC Litigation involves transfers of close to \$5 million and involves both
16 fraudulent transfer and preference theories of relief.

17 Regarding Peters' idea about the Trustee producing some limited number of pdf
18 documents, apparently streamlining, or simplifying Peters' discovery, the Trustee is uncertain of
19 how to respond. Peters will propound the discovery he feels is appropriate to the case and the
20 Trustee will produce the documents responsive to those requests as required by the discovery
21 rules. The Trustee does not get to select which documents to produce as the most important and as
22 such limit the discovery Peters needs to review.

23 Dated: February 22, 2022

FINESTONE HAYES LLP

25 By: /s/ Stephen D. Finestone

26 Stephen D. Finestone

27 Attorneys for Kyle Everett, Trustee in Bankruptcy

28 PLAINTIFF'S STATUS CONF. STMT.